

MAR 06 2009

Application Serial No. 10/522,110
Reply to final office action of December 23, 2008

PATENT
Docket: CU-4057

REMARKS/ARGUMENTS

Reconsideration is respectfully requested.

Claims 1, and 6-12 are pending before this amendment with claims 4-5 having been previously withdrawn which have also been previously canceled. By the present amendment, claims 6-12 are amended; and new claims 21-32 added. No new matter has been added.

A telephonic interview with the USPTO examiner (Scarlett Goon) was conducted with the undersigned attorney (Loren K. Thompson) on January 9, 2009. First, the examiner confirmed that Formula II claimed in claims 6-8 was in allowable subject matter so long as the claims could be rewritten in independent form including all the limitations of the base claim and any intervening claims. Second, the examiner remained steadfast in maintaining that the specification provided support for only establishing that the compound containing Formula II was definite and was enabled to treat either ariboflavinosis, digestive tract catarrh or persistent oral ulcer.

In the office action (page 3), claims 1 and 9-11 stand objected to because of a number of informalities.

Regarding claim 1, the applicants have subsequently amended claim 1 by deleting the "monester" typographical error.

Regarding claims 9-11, the applicants have subsequently canceled claims 1 and 9-11 without prejudice and thus removed the basis for this rejection.

Accordingly, the examiner is respectfully requested to withdraw this objection to the presently claimed invention.

In the final office action (page 4), claims 1 and 9-12 stand rejected under 35 U.S.C. § 112 ¶2 as being indefinite.

Regarding claim 1, the applicants had deleted the objected to term of "derivative" and thereby removed the basis for this rejection to claim 1.

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Regarding claims 9-11, these claims have been subsequently canceled without prejudice and thus removed the basis for this rejection.

Accordingly, the examiner is respectfully requested to withdraw this objection to the presently claimed invention.

In the final office action (page 7), claims 9-12 stand rejected under 35 U.S.C. § 112 ¶1 as being not enabled.

Regarding claims 9-11, the applicants have subsequently canceled claims 9-11 without prejudice and thus removed the basis for this rejection.

Regarding claim 12, the examiner has acknowledged in the office action (page 7) that formula (II) is enabled for treating ariboflavinosis, digestive tract catarrh, and persistent oral ulcer. Accordingly, the applicants have subsequently amended claim 12 to limit use of formula (II) to treat either an ariboflavinosis condition, a digestive tract catarrh, or a persistent oral ulcer in an animal.

Therefore, the applicants submit that the basis for this rejection has been removed and respectfully request that the examiner withdraw this rejection.

In the office action (page 10), claim 1 stands rejected under 35 U.S.C. § 103(a) as being obvious by U.S. Patent No. Edwards (J. Photochem. Photobiol. B: Biol. 1999). The "et al." suffix is omitted in a reference name.

The applicants respectfully disagree and submit that claim 1, as it now stands, is in condition for allowance.

The examiner's attention is respectfully directed to claim 1 that now requires that a -- compound which is 5'-lauric acid ester of riboflavin--.

At most Edwards discloses flavin compounds that include riboflavin, lumiflavin and 2',3',4',5'-tetraacetyl-, -tetrapropionyl-, -tetra butyl and -tetrapalmitoyl esters of riboflavin. Nowhere does Edwards even hint at a compound which is 5'-lauric acid ester of riboflavin. Accordingly, Edwards cannot support an obviousness rejection to claim 1. Therefore, the examiner is respectfully requested to withdraw this rejection.

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In the final office action (page 12), claims 9, 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being obvious over Edwards in view of Okuda (Chem. Pharm. Bull 1980) and Chandra (U.S. Patent No. 6,565,891).

Regarding claims 9 and 11, the applicants have subsequently canceled claims 9-11 without prejudice and thus removed the basis for this rejection.

Regarding claim 12, the above-comments are equally applicable here in that the applicants have subsequently limited claim 12 to be a therapeutic methodology restricted to treat --either an ariboflavinosis condition, a digestive tract catarrh, or a persistent oral ulcer an animal--. Second, since Formula (II) has already been indicated by the examiner to be allowable subject matter, then the applicants have further restricted the therapeutic method of claim 12 to require that the suspension preparation contains Formula (II). Finally, the applicants have further clarified claim 12 by adding the steps of obtaining and administering the suspension preparation.

Therefore, the applicants submit that the basis for this rejection has been removed and respectfully request that the examiner withdraw this rejection.

In the final office action (page 15), claim 10 stands rejected under 35 U.S.C. § 103(a) as being obvious over Edwards in view of Okuda and by Burzynski (PG Publication No. US 2003/0105104) with the teachings evidence by McCarthy (Oral Oncology vol.34, pp. 484-490, 1998).

The applicants have subsequently canceled claim 10 without prejudice and thus removed the basis for this rejection. Accordingly, the examiner is respectfully requested to withdraw this objection to the presently claimed invention.

Regarding new claims 21-32, these new claims are dependent upon claim 12 and as such incorporate by reference all of the limitations contained therein, including the use of the suspension preparation that contains Formula II. Accordingly, the applicants submit that new claims 21-32 are also in condition for allowance.

For the reasons set forth above, the applicants respectfully submit that claims 1, and 6-8 and new claims 21-32, now pending in this application, are in condition for

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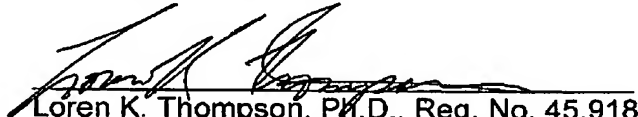
allowance over the cited references. Accordingly, the applicants respectfully request reconsideration and withdrawal of the outstanding rejections and earnestly solicit an indication of allowable subject matter.

The applicants reserve the right to present the cancelled withdrawn claims in a divisional application.

This amendment is considered to be responsive to all points raised in the final office action. Should the examiner have any remaining questions or concerns, the examiner is encouraged to contact the undersigned attorney by telephone to expeditiously resolve such concerns.

Respectfully submitted,

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